

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 15-20652

QUINCY GRAHAM,

Defendant.

MOTION HEARING

Tuesday, May 22, 2018

- - -

APPEARANCES:

For the Government:

CHRISTOPHER GRAVELINE, ESQ.
Assistant U.S. Attorney

For the Defendant:

MICHAEL A. RATAJ, ESQ.

- - -

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Detroit, Michigan

Tuesday, May 22, 2018

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THE CLERK: Case Number 15-20652, United States. America versus Quincy Graham, Jerome Gooch and Jeffrey Adams.

MS. FINOCCHIARO: Julie Finocchiaro, Justin Wechsler and Chris Graveline for the United States.

THE COURT: Welcome.

MR. ARNONE: Please the Court, Joseph Arnone on behalf of Mr. Gooch.

MR. MACHASIC: Good afternoon, your Honor. Ryan Machasic on behalf of Mr. Adams who is present in court.

MR. RATAJ: Mike Rataj on behalf of Quincy Graham.

THE COURT: You can take a seat.

So this is a status conference basically. I think we should be thinking about when people can come together to try the case. I am anticipating that the trial with group two is going to take about 10 to 12 weeks, and we're talking about starting June 5th.

My initial thought for this trial which would be -- which we would supplement with others who are not

1 yet gone to trial. My thought is that if we could, I
2 would set it up for October. I know Mr. Rataj has a
3 scheduled trial before Judge Goldsmith in October.

4 **MR. RATAJ:** November 6th, your Honor.

5 **THE COURT:** Okay. Any projection of the
6 duration?

7 **MR. RATAJ:** You know what? It is the
8 Cheddagrove case. It is a case similar in terms of the
9 allegations of this case. I'm in group one, and I would
10 say those defendants are somewhat similarly situated as
11 our group one defendants were, but a different AUSA. I
12 don't know how they will approach the case, and there is a
13 lot of unknown with respect to that case.

14 **THE COURT:** All right. I'm going talk to
15 Judge Goldsmith. I was wondering how firm it looks to
16 you.

17 **MR. RATAJ:** As far as I'm concerned, it is
18 firm. We've got guys locked up. They got guys locked up.

19 **THE COURT:** Our guys have been locked up
20 longer.

21 **MR. RATAJ:** Yes.

22 **THE COURT:** So how about for remaining
23 counsel? Do either of you have a problem with potentially
24 October?

25 **MR. MACHASIC:** No, your Honor. I can be

1 available.

2 **MR. ARNONE:** No, your Honor.

3 **THE COURT:** And the government?

4 **MS. FINOCCHIARO:** I think the government's
5 concern is that there no counsel from the third group
6 present. We would like to add a few back in so we don't
7 have five trials at this point. So we would like hold off
8 if we could, and have other status conference with counsel
9 for the first group and counsel from the third group, and
10 have a more robust discussion as to who is available in
11 the fall, but other than that, the government will make
12 itself available.

13 **THE COURT:** If these three were added to the
14 other non-death eligible counsel, would we -- we would be
15 at eight, right?

16 **MS. FINOCCHIARO:** I believe that's correct.

17 **THE COURT:** And eight is to too many. So we
18 might take a look at who's available, and if we have at
19 least four or five, we'll go with that, and recognize that
20 we will have another trial to follow.

21 Okay. What else should we be talking about as it
22 relates to --

23 **MS. FINOCCHIARO:** Nothing from the
24 government.

25 **THE COURT:** Mr. Rataj, do you have an

1 alternative proposal?

2 **MR. RATAJ:** I do, your Honor. May I
3 approach?

4 **THE COURT:** Sure.

5 **MR. RATAJ:** My proposal, your Honor, would be
6 to give my client a bond. That would solve a lot of these
7 problems, and with all due respect, Quincy Graham deserves
8 a bond, your Honor. We had a trial. We listened to over
9 100 witnesses. We saw the government put in hundreds of
10 exhibits, and the only thing that we can come away with as
11 it relates to Quincy Graham is that the man sold drugs,
12 and drug dealers get bonds in this court all the time.

13 And now that we had a trial, and the government
14 has failed to convict my client, he deserves a bond, and
15 the only issue for today, your Honor, is can we come up
16 with a combination of conditions that will assure the
17 safety of the community that my client is going to appear,
18 and obviously we can, and if you give my client a bond,
19 that will alleviate a lot of these scheduling problems. I
20 can go towards the back end, and he doesn't have to sit
21 and rot in jail anymore, which is what he has been doing.

22 And I know you read my papers, Judge. I mean,
23 just take the case of Derrick Kennedy. Here's a guy who
24 knows he's under indictment up here in the Eastern
25 District of Michigan. He's on the lamb selling drugs in

1 West Virginia. Has to wait until -- he's the subject of a
2 drug raid, and he finally gets apprehended, and what does
3 he do? He flips and gets a bond. That's not a legal
4 basis for a bond. If Derrick Kennedy gets a bond, Quincy
5 Graham sure as heck deserves a bond.

6 Right here, that young lady in the white shirt
7 right there, your Honor, is owed \$38,000 from Derrick
8 Kennedy for back child support. Warrants are out for that
9 man's arrest, but yet, he's out on bond.

10 Quincy Graham was nothing more than a drug dealer.
11 There was no evidence tying him to any violence in this
12 case.

13 Special Agent Joe Jensen did the cell tower
14 analysis using different phone numbers concerning
15 different people that were involved in shooting. Quincy
16 Graham's phone number was not involved in that analysis.
17 There's nobody that said that he had anything to do with
18 any shooting.

19 As a matter of fact, Derrick Kennedy testified
20 that after Devon McClure was shot, we heard from Matleah
21 Scott. What was he doing? He was at the candlelight
22 vigil. He was at the viewing. He was a pallbearer at the
23 funeral. What was Derrick Kennedy doing? He was
24 commiserating with other co-defendants, going on a hunting
25 mission looking for people for revenge against those they

1 thought might have been responsible for Devon McClure's
2 murder. He had nothing do with that, but Derrick Kennedy
3 gets a bond.

4 That's not fair, Judge. That man deserves a bond.
5 His grandfather has been vetted by Pretrial. He the salt
6 of the earth. He's willing to take in his grandson, and
7 act as a third-party custodian. He's been vetted by
8 Brandy Baldis of Pretrial Services. I've attached the
9 report that was done last year. There's no reason why we
10 can't come up a combination of conditions to satisfy the
11 statute. He's going to be under house arrest. He's going
12 to be on a tether. He's going to have to report. He's
13 going to be on a short leash, but at least he'll be out
14 breathing fresh air and eating decent food, and we can
15 wait our turn for a trial.

16 **THE COURT:** I do have a message from
17 Ms. Baldis that is -- I think we made an inquiry whether
18 they had an updated pre-sentence recommendation. She said
19 nothing new. Defense has not discussed proposed release
20 conditions with Pretrial Services or third-party custody
21 considerations.

22 **MR. RATAJ:** Well, what I did, your Honor, I
23 attached as an exhibit to my original motion, not the
24 reply, Ms. Baldis' report, and I ask the Court to adopt
25 all of those conditions. I'm not asking for anything more

1 and nothing less. Those conditions. Grandpa is here.
2 You can ask him whatever questions the Court so chooses.

3 **THE COURT:** Thank you. Mr. Graveline?

4 **MR. GRAVELINE:** Your Honor, it's the
5 government's position, we, as I said in the papers, that
6 clearly the defense and the government have two opposing
7 views of the evidence in that first trial, and yes, it did
8 not result in a conviction, and it resulted in a hung
9 jury, but defense counsel points to Derrick Kennedy, and
10 then contrasts with Mr. Graham.

11 First, Mr. Graham has been caught on multiple
12 occasions with guns in West Virginia, in Michigan. Since
13 the government downloaded Corey Bailey's phone, which was
14 actually in the possession of Devon McClure in 2013, there
15 are photographs of Mr. Graham with a gun in that phone.
16 We believe that was in West Virginia given the context of
17 the other photographs in the case.

18 He was caught in Harper Woods with a gun, and
19 Derrick Kennedy has never been caught with a gun.

20 So that's where we stand just in terms of charging
21 and actual evidence in the case.

22 Mr. Rataj talks about Derrick Kennedy going out
23 and looking for people. Derrick Kennedy's testimony was
24 that that happened right after the Michael Rogers
25 shooting, which was March of 2015.

1 In the days after Devon McClure's murder, it did
2 not appear that Derrick Kennedy did do that at that time,
3 where there are text messages of Mr. Arnold reaching out
4 to Mr. Graham to get the ammunition for weapons.

5 So if the Court remembers, there was a text
6 exchange on May 11th, the day after Mother's Day shooting
7 where there were 62 rounds shot at three Hustle Boys, and
8 they were AK-47, AR-15, and .40 cal. The next day it's
9 those types of ammunition that Mr. Arnold is asking Mr.
10 Graham for, and Mr. Graham's response is okay. We need to
11 drop these phones. So that's the context that we're
12 talking about.

13 Mr. Kennedy also, yes, when he was caught, came in
14 and cooperated, which then showed at least some level of
15 acceptance of responsibility, and has been on pretrial
16 conditions since then, and he has not been violating
17 those.

18 So that's the contrast that we're talking about
19 here.

20 To say well, Mr. Graham was just a drug dealer, I
21 don't think that comports with the evidence that was
22 presented at the first trial, and we are talking about Mr.
23 Graham being part of a gang that has six people set to go
24 to trial coming up, and has and we presented evidence on
25 various gang members intimidating other witnesses in the

1 case. We are going to be handing out our witness list
2 next Tuesday.

3 So those are all things that we think still
4 necessitate Mr. Graham remaining in custody at this time.
5 We believe that the results of the first trial does not
6 equate into a different calculation that the Court needs
7 to find about whether Mr. Graham poses a risk of flight
8 and a danger to the community, and he should remain in
9 custody at this point.

10 **MR. RATAJ:** Brief rebuttal, your Honor?

11 **THE COURT:** Sure.

12 **MR. RATAJ:** Mr. Graveline speaks about the
13 guns. There was only one time that Mr. Graham was caught
14 with a gun, and he did 27 months pursuant to a sentence
15 handed out by Judge Hood, and that's when they were drunk,
16 passed out behind a McDonalds. And if your Honor recalls,
17 when I asked Special Agent Ruiz if that gun was tied to
18 any crime or any crime of violence, his answer was no. So
19 that's that. That deep sixes that argument.

20 And then there were no other times Mr. Graham was
21 caught with a gun. Mr. Graveline mentioned a situation in
22 West Virginia. With all due respect to Mr. Gooch, he's
23 the one that said that was his gun, and he was
24 incarcerated in West Virginia for that gun. Mr. Graham
25 was not even arrested. He was let go.

1 And then in terms of the text message on
2 5-11-2015, go get me some ammo, one, there's no evidence
3 that Quincy Graham got Billy Arnold any ammo, and we know
4 that took place -- that text message took place after all
5 the shootings. The only other shooting that took place
6 after that was on June 8th, I believe or whatever the date
7 was, the Athena Hall shooting, and the government is
8 claiming that was James Robinson. Not necessarily Billy
9 Arnold.

10 So there was no shootings after this text message,
11 which is vague to say the least. No evidence that Mr.
12 Graham got any ammunition for Billy Arnold, but the most
13 important text message is from June 8, 2015, when Billy
14 Arnold was actually threatening Mr. Graham, saying, I'm
15 going to come over and kick your you know what. You
16 haven't even thrown a rock. That's the famous quote from
17 the trial. You haven't even thrown a rock, which means he
18 was not involved in any revenge against anybody for
19 anything.

20 So this whole notion of dangerous, your Honor, has
21 been undercut by the testimony at the trial. And for
22 goodness sakes, Mr. Graham has done his time. He deserves
23 an opportunity to be out. It's not like he will be out
24 running the streets. He will be staying with his
25 grandfather wearing a tether with strict conditions that I

1 know that your Honor can fashion to satisfy the statute,
2 and really that will resolve -- not only does he deserve a
3 bond, but it will resolve any potential conflicts, because
4 obviously I have obligations to other people. Mr. Graham
5 deserves to spend some time with his family, and wait for
6 the retrial. There's no reason why he should still be
7 behind bars. Thank you.

8 **THE COURT:** Thank you. All right. Well, the
9 Court will review again the Pretrial Services'
10 recommendation, and we'll issue a written opinion.

11 **MR. RATAJ:** Thank you, Judge.

12 **THE COURT:** Anything else?

13 **MS. FINOCCHIARO:** None, your Honor.

14 **MR. MACHASIC:** None, on behalf of Mr. Adams,
15 your Honor.

16 **MR. ARNONE:** Not on behalf of Mr. Gooch.

17 **THE COURT:** If there's nothing else, we'll
18 break.

19 **MR. RATAJ:** Thank you, Judge.

20
21 (Proceedings concluded.)

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C E R T I F I C A T I O N

I, Ronald A. DiBartolomeo, official court reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript has been prepared by me or under my direction.

s/Ronald A. DiBartolomeo

July 3, 2018

Ronald A. DiBartolomeo, CSR
Official Court Reporter

Date

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